

**Daily Lok Adalat****Bench No.1**

515 (6 cases)

FAO-5334-2013 (O&M), FAO-5335-2013 (O&M), FAO-249-2014 (O&M), FAO-250-2014 (O&M), FAO-1855-2015 (O&M) & FAO-5172-2017

BAJAJ ALLIANZ GENERAL INSURANCE COMPANY LIMITED

VS

TEENA ALIAS TWINKLE AND OTHERS

Present:- Mr. PHS Pannu, Advocate
for the appellant -Insurance (in FAO-5334-2013 and 5335-2013)
for the Insurance Company in all FAOs

Mr. Vipin Yadav, Advocate
for the appellants (in FAO-1855-2015)
for the respondents (in FAO-5334-2013, FAO-249-2014)

Mr. Bhanu Pratap Singh, Advocate for the appellants (in FAO-5172-2017).
for the respondents (in FAO-5335-2013)

Mr. Vikas Cuccria, Advocate and
Mr. Arvind Kumar Yadav, Advocate
for the appellants (driver and owner) (in FAO-249-250-2014)
for the respondents (in FAO-1855-2015 and 5172-2014)

This order shall dispose of six appeals i.e. FAO-1855-2015 filed by widow and minor daughter of the deceased; FAO-5172-2017 filed by the parents of the deceased; FAO-5334 & 5335-2013 filed by the Insurance Company and FAO-249 & 250 of 2014 filed by the driver and owner of the offending vehicle as these have been filed against the common award dated 19.08.2013 passed by the Motor Accident Claims Tribunal, Rewari.

This is a case where the Insurance Company has taken the exceptional turn in waiving off the recovery rights to a larger extent in order to end the litigation and to promote the settlement process.

Appellants-claimants (in FAO-1855-2017 and FAO-5172-2017) are the widow, minor daughter and parents of the deceased Viktresh Arora aged about 30 years, who was working as a clerk/cashier in Arora Auto Centre, Rewari died in a motor vehicular accident that had taken place on 03.09.2009.

Learned MACT, vide award dated 19.08.2013 awarded a compensation of Rs.13,06,107/- (Rs.7,64,596 in favour of the widow and minor daughter and Rs.5,41,511/- in favour of the parents of the deceased respectively) along with interest

in favour of the claimants to be paid by the Insurance Company with recovery rights from respondents No.1 and 2 i.e. driver and owner of the offending vehicle as the respondent No.1-Gaurav, who was driving the vehicle, was minor and was not holding the driving licence at the time of accident.

Feeling dissatisfied with the compensation awarded by learned MACT to the claimants, they have filed their separate appeals i.e. FAO-1855-2015 filed by widow and minor daughter of the deceased and FAO-5172-2017 filed by the parents of the deceased seeking enhancement of the compensation awarded to them.

Aggrieved with the aforesaid award, the Insurance Company had filed two separate appeals for absolving the Insurance Company of its liability fastened upon it.

Driver and owner had also filed separate appeals for waiving off the recovery rights given to the Insurance Company to recover the amount of compensation.

All these appeals have been entrusted to this Forum for the purpose of settlement.

As agreed, as per statement of the counsel for the Insurance Company (in FAO-5334 & 5335-2013) and statement of the learned counsel for the driver and owner (in FAO-249-250-2014) and counsel for the appellants, (separately recorded today), a sum of Rs.8,00,000/- (Rupees Eight Lakh only) (including interest) more, over and above, the amount awarded by the Tribunal is allowed to the appellants, in full and final settlement of the claim in these appeal. As per the statement of learned counsel for the appellants-claimants (in FAO-1855-2015 and FAO-5172-2017), the enhanced amount would be paid to the appellants-claimants (as per award). As per the statement of learned counsel for the appellants-claimants (in FAO-5172-2015), the share of the enhanced amount, regarding the parents share, would only be paid to Ravinder Arora (father of the deceased) and as per the statement of learned counsel for the appellants (in FAO-1855-2015), the enhanced amount, regarding the share of the widow and daughter be paid to Teena @ Twinkle (widow of the deceased).

Learned counsel for the Insurance Company has given a statement before this Forum stating therein that as per settlement, the Insurance Company will reimburse the claimants-appellants so far as the compensation awarded by MACT is concerned instead of respondent No.1-Gaurav and respondent No.2-Kapil Yadav i.e. driver and owner respectively and the Insurance Company will pay enhanced compensation Rs.6,50,000/- and rest of the enhanced compensation will be paid by the owner.

On the said magnanimity shown by the Insurance Company, Mr. Vikas

Cuccria, learned counsel for the owner and driver has also given a statement before this Forum that out of total enhanced amount (including interest), which has been assessed Rs.8,00,000/-, Rs.1,50,000/- will be paid by Kapil Yadav (owner) to the widow and the parents as per their share in the award dated 19.08.2013.

We dispose of these two appeals filed by the claimants-appellants i.e. FAO-5172-2017 & FAO-1855-2015 with a direction to Insurance Company as well as Kapil Yadav (owner) to deposit a crossed-cheque in the sum of Rs.8,00,000/- (Rupees Eight Lakh only) , as per their aforesaid statement, in the name of the appellant-Ravinder Arora (father of deceased) and Teena @ Twinkle (widow of the deceased) as per award with the office of the Lok Adalat of the High Court on or before 05.11.2024 failing which the amount will carry 9% interest p.a. from the date of this order till the cheque is deposited with the office of the Lok Adalat. The appellant's counsel/appellant may collect the cheque from the office of the Lok Adalat.

In view of the settlement arrived at between parties in the connected appeals i.e. FAO-5172-2017 and FAO-1855-2017, filed by the parents of the deceased and widow and minor daughter of the deceased respectively, the issue raised in the appeals filed by the Insurance Company i.e. FAO-5334 & 5335-2013 are disposed of in the manner indicated above.

The statutory amount of Rs.25,000/- each deposited at the time of filing both these appeals, be also refunded to the Insurance Company.

So far as the appeals filed by the owner and driver i.e. FAO-249-250-2014 are concerned, the same are partly allowed by waiving off the Insurance Company's rights to recover the amount of compensation awarded by the MACT except Rs.1,50,000/-, which the owner-Kapil Yadav will pay, as per the statement of learned counsel for the owner, out of the enhanced amount of Rs.8,00,000/- to the widow and parents as per their share in the award.

The statutory amount of Rs.25,000/- each deposited at the time of filing both these appeals, be also refunded to the owner and driver.

All the pending applications in all these appeals stand disposed of in view of the settlement.

We must appreciate the gesture, composure and work ethic of legal department led by Mr. Saurav Khullar, Deputy Manager (Legal) of Bajaj Allianz Gen. Ins. Co. Ltd. and his counsel Mr. PHS Pannu, Advocate for excellent representation towards settlement in this case.

Mr. Vikas Curria, learned counsel for the owner has also shown a good gesture in offering Rs.1,50,000/- to the claimants-appellants to promote the process

of settlement.

Copy of the order/statement be supplied /sent to the counsel/parties and file be returned to the High Court.

A photocopy of this order be placed on the file of connected cases.

(J.C. VERMA)
PRESIDENT

24.09.2024
Atul

(ARVIND KUMAR)
MEMBER